

AMENDED IN SENATE JUNE 6, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 424

Introduced by Assembly Member Eng
(Principal coauthor: Senator Vargas)

February 14, 2011

An act to amend Sections 21200, 21200.5, 21201, and 21201.4 of, and to add Section 21003 to, the Financial Code, relating to pawnbrokers.

LEGISLATIVE COUNSEL'S DIGEST

AB 424, as amended, Eng. Pawnbrokers.

Existing law regulates the sale and redemption of pledged property by pawnbrokers. Existing law authorizes a pawnbroker to charge or receive compensation at a rate not exceeding specified amounts based upon the unpaid principal balance of the loan, but at least \$3 per month. Existing law also sets forth a schedule of charges applicable to these loans and authorizes a pawnbroker to impose a charge of \$1 on any loan for not more ~~that~~ *than* 30 days which does not exceed \$14.99. Existing law requires loans made by pawnbrokers to be evidenced by a written contract. Existing law requires a loan to which an original loan debt is applied to be processed as a new loan. A knowing violation of the provisions regulating pawnbrokers is a crime.

This bill would define the term “month” for purposes of these provisions to mean a period of time consisting of 30 consecutive calendar days and would make various conforming changes. The bill would *prohibit a pawnbroker from charging or receiving compensation at a rate exceeding 2.5% per month on the unpaid principal balance of any loan* and would specify that a pawnbroker may charge or receive

compensation in an amount of \$3 per month ~~when the sum of specified~~
if those other charges or compensation based upon the unpaid principal
balance of a loan would be less. The bill would authorize a pawnbroker
to impose a charge of \$1 on any loan for not more than 3 months which
does not exceed \$14.99. The bill would make other clarifying changes
to these provisions.

Because a knowing violation of these provisions by a pawnbroker
would be a crime, this bill would impose a state-mandated local
program.

The California Constitution requires the state to reimburse local
agencies and school districts for certain costs mandated by the state.
Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act
for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 21003 is added to the Financial Code, to
- 2 read:
- 3 21003. For purposes of this division, the term “month” means
- 4 a period of time consisting of 30 consecutive calendar days.
- 5 ~~SEC. 2. Section 21200 of the Financial Code is amended to~~
- 6 ~~read:~~
- 7 ~~21200. (a) Except as otherwise provided in this chapter, no~~
- 8 ~~pawnbroker shall charge or receive compensation at a rate~~
- 9 ~~exceeding the sum of the following:~~
- 10 ~~(1) Two and one-half percent per month on that portion of the~~
- 11 ~~unpaid principal balance of any loan up to, including, but not in~~
- 12 ~~excess of two hundred twenty-five dollars (\$225).~~
- 13 ~~(2) Two percent per month on that portion of the unpaid~~
- 14 ~~principal balance of the loan in excess of two hundred twenty-five~~
- 15 ~~dollars (\$225) up to, including, but not exceeding nine hundred~~
- 16 ~~dollars (\$900).~~
- 17 ~~(3) One and one-half percent per month on that part of the~~
- 18 ~~unpaid principal balance in excess of nine hundred dollars (\$900)~~
- 19 ~~up to and including, but not in excess of, one thousand six hundred~~
- 20 ~~fifty dollars (\$1,650).~~

1 ~~(4) One percent per month on any remainder of the unpaid~~
2 ~~principal balance in excess of one thousand six hundred fifty dollars~~
3 ~~(\$1,650).~~

4 ~~(b) A charge not exceeding three dollars (\$3) a month may be~~
5 ~~charged by a pawnbroker in any month where the sum of the rates~~
6 ~~set forth in subdivision (a) would otherwise be less.~~

7 ~~(c) One month's interest may be charged for any part of the~~
8 ~~month in which pawned property is redeemed.~~

9 *SEC. 2. Section 21200 of the Financial Code is amended to*
10 *read:*

11 21200. (a) Except as otherwise provided in this chapter, no
12 pawnbroker shall charge or receive compensation at a rate
13 exceeding the sum of the following:

14 (1) Two and one-half percent per month on ~~that portion of the~~
15 ~~unpaid principal balance of any loan up to, including, but not in~~
16 ~~excess of two hundred twenty-five dollars (\$225).~~

17 ~~(2) Two percent per month on that portion of the unpaid~~
18 ~~principal balance of the loan in excess of two hundred twenty-five~~
19 ~~dollars (\$225) up to, including, but not exceeding nine hundred~~
20 ~~dollars (\$900).~~

21 ~~(3) One and one-half percent per month on that part of the~~
22 ~~unpaid principal balance in excess of nine hundred dollars (\$900)~~
23 ~~up to and including, but not in excess of, one thousand six hundred~~
24 ~~fifty dollars (\$1,650).~~

25 ~~(4) One percent per month on any remainder of the unpaid~~
26 ~~principal balance in excess of one thousand six hundred fifty dollars~~
27 ~~(\$1,650).~~

28 ~~(5)~~
29 (2) A charge not exceeding three dollars (\$3) a month on any
30 loan when the monthly charge permitted by ~~this section~~ *paragraph*
31 *(1)* would otherwise be less ~~than that minimum charge.~~

32 (b) One month's interest may be charged for any part of the
33 month in which pawned property is redeemed.

34 *SEC. 3. Section 21200.5 of the Financial Code is amended to*
35 *read:*

36 21200.5. A pawnbroker may charge as prescribed in the
37 following schedule:

38 Schedule of Charges

1 (a) A charge not exceeding one dollar (\$1) per month for the
2 first three months may be made on any loan which does not exceed
3 fourteen dollars and ninety-nine cents (\$14.99).

4 (b) A charge not exceeding three dollars (\$3) may be made on
5 any loan for not more than three months of fifteen dollars (\$15)
6 or more, but not exceeding nineteen dollars and ninety-nine cents
7 (\$19.99).

8 (c) A charge not exceeding four dollars (\$4) may be made on
9 any loan for not more than three months of twenty dollars (\$20)
10 or more, but not exceeding twenty-four dollars and ninety-nine
11 cents (\$24.99).

12 (d) A charge not exceeding five dollars (\$5) may be made on
13 any loan for not more than three months of twenty-five dollars
14 (\$25) or more, but not exceeding thirty-nine dollars and ninety-nine
15 cents (\$39.99).

16 (e) A charge not exceeding six dollars (\$6) may be made on
17 any loan for not more than three months of forty dollars (\$40) or
18 more, but not exceeding forty-nine dollars and ninety-nine cents
19 (\$49.99).

20 (f) A charge not exceeding seven dollars and fifty cents (\$7.50)
21 may be made on any loan for not more than three months on any
22 loan of fifty dollars (\$50) or more, but not exceeding sixty-four
23 dollars and ninety-nine cents (\$64.99).

24 (g) A charge not exceeding eight dollars and fifty cents (\$8.50)
25 may be made on any loan for not more than three months of
26 sixty-five dollars (\$65) or more, but not exceeding seventy-four
27 dollars and ninety-nine cents (\$74.99).

28 (h) A charge not exceeding ten dollars (\$10) may be made on
29 any loan for not more than three months of seventy-five dollars
30 (\$75) or more, but not exceeding ninety-nine dollars and
31 ninety-nine cents (\$99.99).

32 (i) A charge not exceeding twelve dollars and fifty cents
33 (\$12.50) may be made on any loan for not more than three months
34 of one hundred dollars (\$100) or more, but not exceeding one
35 hundred twenty-four dollars and ninety-nine cents (\$124.99).

36 (j) A charge not exceeding thirteen dollars and fifty cents
37 (\$13.50) may be made on any loan for not more than three months
38 of one hundred twenty-five dollars (\$125) or more, but not
39 exceeding one hundred forty-nine dollars and ninety-nine cents
40 (\$149.99).

1 (k) A charge not exceeding fifteen dollars (\$15) may be made
2 on any loan for not more than three months of one hundred fifty
3 dollars (\$150) or more, but not exceeding two hundred twenty-four
4 dollars and ninety-nine cents (\$224.99).

5 (l) A charge not exceeding twenty dollars (\$20) may be made
6 on any loan for not more than three months of two hundred
7 twenty-five dollars (\$225) or more, but not exceeding three hundred
8 twenty-four dollars and ninety-nine cents (\$324.99).

9 (m) A charge not exceeding twenty-five dollars (\$25) may be
10 made on any loan for not more than three months of three hundred
11 twenty-five dollars (\$325) or more, but not exceeding four hundred
12 forty-nine dollars and ninety-nine cents (\$449.99).

13 (n) A charge not exceeding thirty-five dollars (\$35) may be
14 made on any loan for not more than three months of four hundred
15 fifty dollars (\$450) or more, but not exceeding five hundred
16 ninety-nine dollars and ninety-nine cents (\$599.99).

17 (o) A charge not exceeding forty-five dollars (\$45) may be made
18 on any loan for not more than three months of six hundred dollars
19 (\$600) or more, but not exceeding seven hundred ninety-nine
20 dollars and ninety-nine cents (\$799.99).

21 (p) A charge not exceeding fifty-five dollars (\$55) may be made
22 on any loan for not more than three months of eight hundred dollars
23 (\$800) or more, but not exceeding nine hundred ninety-nine dollars
24 and ninety-nine cents (\$999.99).

25 (q) A charge not exceeding seventy dollars (\$70) may be made
26 in any loan for not more than three months of one thousand dollars
27 (\$1,000) or more, but not exceeding eleven hundred ninety-nine
28 dollars and ninety-nine cents (\$1,199.99).

29 (r) A charge not exceeding eighty-five dollars (\$85) may be
30 made on any loan for not more than three months of twelve hundred
31 dollars (\$1,200) or more, but not exceeding fourteen hundred
32 ninety-nine dollars and ninety-nine cents (\$1,499.99).

33 (s) A charge not exceeding one hundred dollars (\$100) may be
34 made on any loan for not more than three months of fifteen hundred
35 dollars (\$1,500) or more, but not exceeding seventeen hundred
36 ninety-nine dollars and ninety-nine cents (\$1,799.99).

37 (t) A charge not exceeding one hundred twenty dollars (\$120)
38 may be made on any loan for not more than three months of
39 eighteen hundred dollars (\$1,800) or more, but not exceeding two
40 thousand ninety-nine dollars and ninety-nine cents (\$2,099.99).

1 (u) A charge not exceeding one hundred forty dollars (\$140)
2 may be made on any loan for not more than three months of
3 twenty-one hundred dollars (\$2,100) or more, but not exceeding
4 twenty-four hundred ninety-nine dollars and ninety-nine cents
5 (\$2,499.99).

6 (v) The monthly charge for any extension of a written contract
7 required by Section 21201 or 21201.5 shall be computed in
8 accordance with the provisions of Section 21200.

9 The schedule of charges prescribed by this section shall be posted
10 in a place clearly visible to the general public.

11 SEC. 4. Section 21201 of the Financial Code is amended to
12 read:

13 21201. Every loan made by a pawnbroker for which goods are
14 received in pledge as security shall be evidenced by a written
15 contract, a copy of which shall be furnished to the borrower. The
16 loan contract shall provide a four-month loan period, shall set forth
17 the loan period and the date on which the loan is due and payable,
18 and shall clearly inform the borrower of his or her right to redeem
19 the pledge during the loan period.

20 Every loan contract shall contain the following notice, in at least
21 8-point boldface type and circumscribed by a box, immediately
22 above the space for the borrower's signature:

23 "You may redeem the property you have pledged at any time
24 until the close of business on ____ [fill in date four months from
25 date loan begins]. To redeem, you must pay the amount of the loan
26 and the applicable charges which have accrued through the date
27 on which you redeem."

28 Every pawnbroker shall retain in his or her possession every
29 article pledged to him or her for a period of four months. During
30 such period the borrower may redeem the articles upon payment
31 of the amount of the loan and the applicable charges. If the
32 borrower and the pawnbroker agree in writing that the pawned
33 property may be stored off premises, following the request for
34 redemption of the loan, the pawnbroker shall return the pledged
35 property to the consumer the next calendar day when both the
36 pawnbroker's store and the storage facility are open, not to exceed
37 two business days.

38 If any pledged article is not redeemed during the four-month
39 loan period as provided herein, and the borrower and pawnbroker
40 do not mutually agree in writing to extend the loan period, the

1 pawnbroker shall notify the borrower within one month after
2 expiration of the loan period. If the pawnbroker fails to notify the
3 borrower within one month after the expiration of the loan period,
4 the pawnbroker shall not charge interest from the day after the
5 expiration of the one month period. The pawnbroker shall notify
6 the borrower at his or her last known address of the termination
7 of the loan period, by a means for which verification of mailing
8 or delivery of the notification can be provided by the pawnbroker,
9 and extending the right of redemption, during posted business
10 hours, for a period of 10 days from date of mailing of that notice.
11 The 10-day notice shall include a statement that: "If the tenth day
12 falls on a day when the pawnshop is closed, the time period is
13 extended to the next day that the pawnshop is open."

14 However, the posted schedule of charges required pursuant to
15 Section 21200.5 shall contain a notice informing the borrower that
16 if he or she desires, the pawnbroker shall send the notice of
17 termination of the loan period by registered or certified mail with
18 return receipt requested, upon prepayment of the mailing costs. If
19 any pledged article is not redeemed within the 10-day notice period,
20 the pawnbroker shall become vested with all right, title, and interest
21 of the pledgor, or his or her assigns, to the pledged article, to hold
22 and dispose of as his or her own property. Any other provision of
23 law relating to the foreclosure and sale of pledges shall not be
24 applicable to any pledge the title to which is transferred in
25 accordance with this section. The pawnbroker shall not sell any
26 article of pledged property until he or she has become vested with
27 the title to that property pursuant to this section. The sale of
28 pledged property is a misdemeanor pursuant to Section 21209.

29 SEC. 5. Section 21201.4 of the Financial Code is amended to
30 read:

31 21201.4. Charges for the first three months of any loan made
32 pursuant to the written contract required by Section 21201 or
33 21201.5 shall be determined by the application of the schedule of
34 charges contained in Section 21200.5. Charges for any extension
35 of time following the first three months of any loan shall be
36 determined by application of the schedule of maximum
37 compensation contained in Section 21200.

38 SEC. 6. No reimbursement is required by this act pursuant to
39 Section 6 of Article XIII B of the California Constitution because
40 the only costs that may be incurred by a local agency or school

1 district will be incurred because this act creates a new crime or
2 infraction, eliminates a crime or infraction, or changes the penalty
3 for a crime or infraction, within the meaning of Section 17556 of
4 the Government Code, or changes the definition of a crime within
5 the meaning of Section 6 of Article XIII B of the California
6 Constitution.

O